

## **SECTION M—EVALUATION FACTORS FOR AWARD**

### **M.1 FAR PROVISIONS INCORPORATED IN FULL TEXT**

#### **52.217-5 Evaluation of Options**

**(JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

### **M.2 Award Selection**

The Government intends to award a contract to the Contractor whose proposal for the services described herein conforms to the solicitation and represents the overall best value to ICE. The Best Value Trade Off Approach is a method of selecting the proposals that represents the best value to the Government, based on evaluation of each offer in the following areas:

- 1) Demonstrated Technical/ Management Capability (Volume I),
- 2) Past Performance (Volume II),
- 3) Cost/Price (Volume III), and
- 4) Environmental (Volume IV).

This provision is intended to explain the rationale and precise criteria by which proposals will be assessed by the evaluation team. Offerors are to prepare proposals with these criteria in mind (i.e., in terms of both content and organization), in order to assist the team in determining the relative merit of proposals in relation to the requirements as defined in this solicitation.

The Government intends to evaluate proposals and award upon initial proposals, reserving the right to award without further discussions. Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a Price/Cost and Technical standpoint. However, the Government reserves the right to enter into discussions, establish a competitive range, and if necessary, request best and final offers from Contractors. For evaluation purposes the base period plus all options will be evaluated together.

The Government will evaluate proposals in accordance with the requirements of FAR Subpart 15.3, "Source Selection." Offerors must recognize that the initial evaluation of proposals and the determination of the competitive range, if any, will be made upon a review of the proposals only, plus some independent investigations that may be made with regard to Past Performance. The Government reserves the right to hold discussions if award on the basis of initial offers is determined not to be in the

Government's best interest. If written or oral discussions are conducted, the Government will seek revised proposals from Offerors within the competitive range.

At the conclusion of discussions (if applicable), as stipulated in FAR 15.307, a Final Proposal Revision (FPR) will be requested from all Offerors still within the competitive range. The FPR shall be submitted in the form of a contractual document (including revisions to the original proposal) that has been executed by an individual with the authority to bind the Offeror. Selection will be made in accordance with the evaluation criteria herein. Contract award may be made without subsequent discussions or negotiation.

The Source Evaluation Board (SEB) will present its findings to the Source Selection Authority (SSA). The SSA's decision shall be based on a comparative assessment of proposals against all source selection criteria in the solicitation. While the SSA may use reports and analyses prepared by others, the source selection decision shall represent the SSA's independent judgment. The Government intends to award a contract resulting from this solicitation to the responsible Offeror whose proposal represents the best value after evaluation in accordance with the criteria set forth in the solicitation.

## **2.1 Evaluation Factors.**

There are four evaluation factors for this procurement:

- 1) Demonstrated Technical/Management Capability,
- 2) Past Performance,
- 3) Price, and
- 4) Environmental (Sufficient / Insufficient)

Specific information regarding each factor is provided below.

### **2.1.1 Demonstrated Technical/Management Capability Factor**

The Demonstrated Technical/Management Capability factor indicates, for each Offeror, the merit or excellence of the work to be performed and the ability of the Offeror to accomplish what is offered, or the product to be delivered. The overall Demonstrated Technical/Management Capability Factor and its sub-factors will be adjectively rated based on the following table:

<i>Rating</i>	<i>Symbol</i>	<i>Definition</i>
Outstanding	O	Proposal demonstrates an understanding of requirements and approach that significantly exceeds performance or capability standards. Proposal has exceptional strengths that will significantly benefit the Government. No deficiency or significant weaknesses exist. Risk is low, and the proposal indicates a very high probability of successful performance.
Acceptable	A	Proposal demonstrates an understanding of requirements and approach that meets performance or capability standards. Acceptable solution which demonstrates overall competence. One or more strengths have been found, and strengths outbalance any weaknesses that exist. Risk is low, and there is a good probability of success.
Marginal	M	Proposal demonstrates a marginal understanding of requirements and approach that only marginally meets performance or capability standards necessary for minimal. Some important standards have not been met. Risk is evident, and there is a low probability of success. There are serious deficiencies in the proposals, but they are correctable.
Unsatisfactory	U	Fails to meet the requirement; one or more deficiencies and weaknesses for which correction would require a major revision or the proposal would need to be completely rewritten. Several important standards have not been met. Risk is high, and there is little likelihood of success.

Overall, the Government will evaluate Offeror's Demonstrated Technical/ Management Capability proposal based on the Offeror's ability to fulfill the technical requirements while meeting quality, schedule, and safety requirements. The compatibility between the proposed technical and management approaches and the proposed total compensation to accomplish the work will be an important consideration in the evaluation of this factor.

### **2.1.2 Past Performance Factor**

This factor indicates the relevant quantitative and qualitative aspects of each Offeror's record of performing services or delivering products similar in size, content, and complexity to the requirements of the current acquisition. This factor provides an

opportunity to evaluate the quality of goods and services provided by the Offerors to the agency and other organizations as either a prime or subcontractor. The Past Performance evaluation assesses the contractor's performance under previously awarded contracts. The past performance evaluation is an assessment of the Government's level of confidence in the Offeror's ability to perform the solicitation requirements. The past performance evaluation shall be in accordance with FAR 15.305(a)(2).

When applying the definitions below to arrive at a confidence rating, the SEB's evaluation shall clearly document each Offeror's relevant past performance (e.g., recency, size, content and complexity) to assess the Offeror's overall confidence rating assigned. The past performance evaluation is an assessment of the Government's confidence in the Offeror's ability to perform the solicitation requirements. Past Performance shall be evaluated for each Offeror using the following levels of confidence ratings:

Rating	Symbol	Definition
EXCEPTIONAL	E	Contractor's performance significantly exceeded most or all contract requirements. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the Contractor were highly effective.
VERY GOOD	VG	Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the Contractor were effective.
SATISFACTORY	S	Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the Contractor appear or were satisfactory.
NEUTRAL	N	In the case of a vendor without a record of relevant past performance or for whom information on past performance is not available, the vendor may not be evaluated favorably or unfavorably on past performance.
MARGINAL	M	Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the Contractor has not yet identified corrective actions. The Contractor's proposed actions appear only marginally effective or were not fully implemented.
UNSATISFACTORY	U	Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains serious problems(s) for which the Contractor's corrective actions appear or were ineffective.

### 2.1.3 Price Factor

This factor is used to assess what each Offeror's proposal will cost the Government should it be selected for award. Proposed pricing data will be analyzed to determine the price and associated risks of doing business with an Offeror based upon the Offeror's

proposed approach for the proposed price. A price analysis will be performed to assess the reasonableness of the proposed prices under the firm fixed price contract.

#### **2.1.4 Environmental**

Information will be requested of offerors regarding past environmental activities and the environmental condition of the proposed site and institution. Environmental documentation and other information will be required in order to comply with the National Environment Policy Act of 1969 (NEPA) prior to award.

The Government will independently evaluate and verify the accuracy of the environmental documentation submitted in accordance with Sections J and L.

The Government reserves the right to eliminate proposals based on adequacy of the documentation provided by the offeror or the potential impact to the quality of the human environment. For example, the Government reserves the right to eliminate proposals if, in the opinion of the Government, environmental permits or other similar requirements under NEPA and outside the direct control of Immigration and Customs Enforcement would place in jeopardy the timely award of a contract under this solicitation.

The Government reserves the right to disclose or make public any environmental documentation or other information provided under this section. Such disclosures would typically occur in Environmental Impact Statements, Environmental Assessments, public hearing, comment periods and other public forums.

The environmental proposal will be rated based on the following table:

Rating	Symbol	Definition
Sufficient	S	Contains a level of environmental analysis and sufficiently detailed information regarding potential impacts to the human environment that allows ICE to conduct a complete analysis. The information submitted must demonstrate an overall understanding of NEPA requirements and adequately address all of the elements required for NEPA compliance documentation as identified in Section 2.0 of Section J, Attachment 12. The location of the proposed action, the evaluation of impacts, or the mitigation required to achieve a Finding of No Significant Impact (FONSI) must not impact the ability of ICE to complete the NEPA process within 270 days from the date of proposals received. Minor corrections may be needed, but are not significant.
Insufficient	I	Fails to contain level of environmental analysis and sufficiently detailed information regarding potential impacts to the human environment that allows ICE to conduct a complete analysis. The information provided does not demonstrate an overall understanding of NEPA requirements and/or adequately address all of the elements required for NEPA compliance documentation as identified in Section 2.0 of Section J Attachment 12. The information provided would require complete or significant retesting, re-evaluation, and document generation, and/or would not reasonably allow ICE to complete the NEPA process within 270 days from the date of proposals received.

A rating of Insufficient will result in the entirety of the offeror's proposal being eliminated from consideration for award.

## 2.2 Definition of Terms

The Government will define strengths, weaknesses and deficiencies in its evaluation of proposals as follows:

- A *significant strength* is defined as any aspect of a proposal that, when judged against the stated evaluation criteria, substantially enhances the merit of the proposal and considerably increases the probability of successful performance of the contract.
- A *strength* is defined as any aspect of a proposal that, when judged against the stated evaluation criterion it enhances the merit of the proposal or provides the increased probability of successful performance of the contract.
- A *weakness* is defined as a flaw in a proposal that increases the risk of unsuccessful contract performance. A weakness need not be corrected for a proposal to be considered for award but may affect the proposal rating.
- A *significant weakness* is defined as a flaw that appreciably increases the risk of unsuccessful contract performance. Significant weaknesses need not be corrected in order for a proposal to be considered for award but may affect the proposal rating.
- A *deficiency* is defined as a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.
- A *clarification* is defined as a limited exchange between the Government and an offeror, under a competitively negotiated procurement, that occurs when award on initial proposals is contemplated. Clarifications do not result in the submission of a revised offer or quotation.

## 2.3 Methodology of Evaluation

Each offer will be rated based on effectiveness, expected outcomes, sound business practices, demonstrated understanding of all elements of the technical requirements, and fair and reasonable pricing. Proposals which are unrealistic in terms of technical or schedule commitments, or unrealistically high or low in terms of pricing, may be deemed to be reflective of an inherent lack of technical competence, or indicative of a failure to comprehend the complexity and risks of the proposed work and may be grounds for rejection. The Source Selection Authority (SSA) may determine that a superior solutions/approach, as determined through the evaluation factors, merits a higher price, and therefore represents the best value to the Government. The SSA, using sound business judgment, will base the selection decision on an integrated assessment of the Offeror's relative capability as measured against the evaluation factors identified in this Section M.

Each proposal submission, as well as each evaluation, shall stand-alone and be decided based on its own merits.



The Government may:

- Accept other than the lowest price submittal; and/or,
- Allow Offerors to “resolve minor or clerical errors” in accordance with FAR 15.306.

The Government will disclose the following information in post-award debriefings to an unsuccessful Contractor:

- The SSA’s decision;
- The unsuccessful Contractor’s evaluated standings relative to the successful Contractor(s); and
- A summary of the evaluation findings relating to the unsuccessful Offeror.

The Government intends to evaluate proposals and award a contract without discussions. The Government reserves the right hold discussions, if necessary. The Government may establish a competitive range to only those Contractors most likely to receive award. A proposal in response to this RFP must contain the Contractor’s best terms from a technical and price standpoint.

### **M.3 Relative Importance of Factors**

For purposes of this requirement, the following is the relative importance of the factors.

The Environmental proposal will be assigned a sufficient/insufficient rating. Once sufficiency is evaluated no further relative importance shall be assigned to the Environmental factor. An offeror whose Environmental proposal is deemed insufficient will be excluded from further consideration for award.

Of the three remaining factors, Demonstrated Technical/Management Capability (Factor 1) is the most important factor, with all five (5) Sub-factors under Factor 1 rated equal in importance. Demonstrated Technical/Management Capability (Factor 1) is more important than Past Performance (Factor 2). When combined, Demonstrated Technical/Management Capability and Past Performance are more important than Price (Factor 3).

The Government will not make an award at a significantly higher overall cost to the Government to achieve only slightly superior technical capability. As the technical merits of competing proposals become comparable, price will become more important in any trade off decisions. Notwithstanding the above, proposals may be removed from competition if they receive an overall “Unsatisfactory” rating for Factor 1.

The determination of best value will be made by comparing the differences in the ratings for the Demonstrated Technical/Management Capability factors and Past Performance factor with the proposed Price. The Government will make this assessment through the tradeoff analysis of benefits of superior abilities and probability of successful contract performance versus the added cost. Overall cost to the Government may become the

ultimate determining factor for award of the contract as proposals become more equal based on other factors.

Pricing Schedule Option A and Option B will be compared concurrently. The cancellation ceiling will not be an evaluation factor for award. Rather, the pricing evaluation will consist of comparing the total cost proposed by Offerors for both Pricing Schedules Option A and Option B (excluding the proposed cancellation ceiling).

#### **M.4 Evaluation Factors**

ICE will evaluate the merits of the Offeror's technical approach to provide the services specified in this solicitation. Proposals will be evaluated on the basis of the Contractor's demonstrated understanding of all elements of the technical requirements, the soundness and technical ability of the proposed approach, and the validity of the proposed methodology to meet the requirements of the this solicitation. The Government will evaluate all factors and sub-factors based on the criteria in Section L.6 Proposal Preparation Instructions, Section 3 – Technical Proposal Content. The following elements will be evaluated:

##### **4.1 Factor 1: Demonstrated Technical/Management Capability (Volume I)**

The Offeror's Proposal will be evaluated based on the Offeror's ability to fulfill the technical requirements while meeting quality requirements and the Offeror's business approach. Information submitted in Volume I of the proposal that is not relevant to the Demonstrated Technical/ Management Capability factor will not be evaluated. The integration between the Demonstrated Technical/ Management Capability findings and price is critical to determining price reasonableness. Paraphrasing and merely stating the Offeror understands and will comply with the requirements described in this solicitation; including statements such as "standard procedures will be employed" or "well known techniques will be used", will not be interpreted as demonstrating a sufficient level of awareness and understanding of this solicitation and will not be considered as a tangible response to this solicitation.

The Government will evaluate all factors and sub-factors based on the criteria in Section L.6 Proposal Preparation Instructions and will rate each factor and sub-factor in accordance with the adjectival ratings set forth in Section M.2 Award Selection.

##### **4.1.1 Sub-factor 1: Technical Management Approach**

The offeror shall:

- Provide a concept design in response to the PWS. That design may involve the use of an existing facility, the renovation of an existing facility or new construction. **The design should be innovative and feasible, and meet the minimum requirements of the PWS, RFP and design standards therein.**
- Articulate its understanding of the Performance Work Statement (PWS).

- Articulate how it specifically plans to help ERO achieve the PWS through its design solution
- Articulate how it will acquire and maintain a reserve guard force for temporary or emergency staffing that is sufficient to meet the requirements of the PWS.
- Provide a Management Plan.
- Clearly identify and explain any assumptions made in the submission of their technical approach volume, including the concept design.

Ratings for this factor will be based on a judgment of the degree to which the Offeror demonstrates its ability to perform the tasks and provide solutions to the requirement. The degree to which the proposed approach addresses difficulties present in the current state of the field and the related project impacts will also be considered.

#### **4.1.2 Sub-factor 2: Quality Control Plan**

The Government will evaluate the Offeror's approach to planning and executing a quality control and assurance process throughout the life of the contract fully meets the standards proposed in their offer. The Quality Control Plan demonstrates the Offeror's ability to self-monitor and comply with the ICE Quality Assurance Surveillance Plan (QASP) with regard to:

- Inspections
- Methodology
- Supervisory Plan
- Communication Plan
- Emergency Food Service Plan
- Ensuring all ACA and PBNS standards are met or exceeded.
- Ensuring all safety requirements are met (e.g. Occupational Safety and Health Administration (OSHA) standards)
- Demonstrating a thorough understanding of security risk management as it pertains to ICE detention management

Providing personnel who will be responsible for quality control, safety, compliance, and are knowledgeable in ACA and PBNS standards

The Offeror shall provide a Quality Control plan in accordance with the solicitation and QASP that identifies the internal review procedures to ensure high quality standards are sustained. The narrative shall contain a company profile showing all highly qualified individuals who will directly supervise or review projects to ensure quality control, which includes any quality control measures for subcontractors resulting in acceptable measures for subcontractors. The narrative shall also address the approach for application of innovative quality leadership; productivity enhancement; cost reduction

methods and techniques; handling of potential problem areas and solutions; and customer relations; and procedures for meeting urgent requirements.

#### **4.1.3 Sub-factor 3: Transition Plan**

The Government will evaluate the Offeror's Transition Plan for soundness, completeness, efficiency, and effectiveness including the approach and rationale for the continuation of operations during contract transition and addressing issues typically encountered during the transition-in and transition-out at the conclusion of the contract.

- Recruitment, adequate and available staff.
- Training of new and incumbent employees.
- Licenses and Permits obtained prior to performance.
- Insurance obtained prior to performance and in compliance with clause H-1.
- Background Investigations; all employees are cleared in accordance with Section H.
- Inventory of Proposed Security / Enforcement Equipment is adequate to deal with a disturbance.
- Estimate of and supporting rationale for the number of incumbent contractor employees expected to be hired.
- Implementation schedule of tasks to be completed by the Offeror during Phase-In. The schedule shall include at a minimum, but not limited to, medical screening, physical agility testing, psychological screening, interviews, vehicle assessments, uniform fitting, furniture and equipment ordering, training, weapons systems qualifications, standard operating procedure development, and any other elements that create risk in the schedule.
- Schedule for certifying and training company personnel (including key personnel) to assume operational responsibilities and PWS requirements at contract start. Include approach to conducting required PWS fitness screening requirements to ensure personnel suitable at contract start.
- Identification of Phase-In risk areas and recommend approaches to minimize the probability and impact of those risks.

#### **4.1.4 Sub-factor 4: Staffing Plan and Key Personnel/Resumes**

The Government will evaluate the Offeror's Key Personnel and Professional Staffing Plan shall identify the total work force (including Subcontractors) that will be used to perform all services described in this solicitation. The Key Personnel and Professional Staffing Plan shall include an organizational chart with all proposed personnel, including the supervisor level, functional responsibilities, key personnel, and other staff members who will provide services under this contract for the following:

- Approach to providing the staffing (skill mix) necessary to perform requirements.
- Approach for responding to changing skill sets requirements.

- Any difficulties anticipated in fulfilling the staffing requirements of this contract and the plans to overcome those difficulties.
- Recruitment plans, methods, sources of personnel, employee retention rate and employee retention plans. Address plans for internal training, mentoring, and career development.
- Other policies and incentives aimed at contributing to employee retention, morale, productivity, growth and development.
- Management approach to, and responsibilities for, setting employee performance standards, for maintaining performance at those standards, including methods for recognizing outstanding performance and processes for dealing with underperforming employees.
- Staffing risk areas and recommended approaches to minimize the probability and impact of those risks.

The Staffing Plan shall include an organizational chart with all proposed personnel, including the supervisor level, functional responsibilities, key personnel, and other staff members who will provide services under this contract.

For staff other than key personnel, any proposed personnel that are titled differently from the Government titles contained in this solicitation must be described through a cross walk matrix. This matrix must include a function description, qualifications, and duties that the Offeror is proposing for that labor category.

**Proposed Key Personnel**, the Government will evaluate the following:

- Rationale for selection of personnel to fill key positions, including individual's background, education and experience, qualifications, and their proposed assignment/role in the contract. The plan must clearly demonstrate the required experience and knowledge identified in the solicitation.
- For each key personnel identified, discuss the actual time committed throughout the duration of the contract, the rationale for the level of commitment, and the impact thereof on contract performance.
- Commitment letters and resumes (no longer than 3 pages) with position descriptions for all key personnel.
- For any Key Personnel not specified by the Government, the Offeror's description of Key Personnel positions including authority and responsibilities, and the rationale why the position is considered a Key Personnel position.

The Offeror shall provide a minimum of one (1) resume for each key person identified in the solicitation.

#### **4.1.5 Sub-factor 5: Demonstrated Compliance with Standards:**

The Government shall evaluate the Offeror's approach to ensure compliance with the following standards:

- 2011 Performance Based National Detention Standards (PBNDS 2011):

- The government expects Offeror compliance with all mandatory requirements outlined by PBNDS 2011.
  - In addition, the government will evaluate the extent of Offeror compliance with the optimal (non-mandatory) requirements of PBNDS 2011
- Prison Rape Elimination Act (PREA) standards for DHS detention facilities.
  - American Correctional Association (ACA) Standards
  - National Commission on Correctional Health Care (NCCHC) Standards
  - Other Local, State and Federal Standards (i.e. state licenses, permits, etc.)

#### **4.2 Factor 2: Past Performance (Volume II)**

The past performance evaluation will be accomplished by reviewing aspects of an Offeror's recent and relevant past performance, focusing on performance which is relevant to this acquisition. The past performance evaluation will be used as a means of determining the probability of the Offeror to meet the performance requirements of the proposed contract.

The past performance assessment is based on consideration of all relevant facts and circumstances. The Government is seeking to determine whether the Offeror has consistently demonstrated a commitment to customer satisfaction and timely delivery of goods and services. The Government will consider the scope of the performance, source of the performance information, context of the data, general trends in Offerors' performance, and the size and complexity of the performance relative to this solicitation's requirements.

In addition to the submitted questionnaires and past project forms, the Government will accomplish an overall past performance evaluation based upon the past performance information obtained through the PPIRS, similar systems of other Government departments and agencies, interviews, and through any other sources known to the Government, including commercial sources. An overall past performance rating determination will be made of the Offerors' past performance including, if applicable, the extent of its subcontractors' and teaming partners' involvement. While the Government may elect to consider data obtained from other sources, the burden of providing current, accurate and complete past performance information rests with the vendor. The Offeror will have the opportunity to respond to any adverse past performance that the Government receives.

In the case of an Offeror without a record of relevant past performance or for whom information on past performance is not available or so sparse that no meaningful past performance rating can be reasonably assigned, the Offeror may not be evaluated favorably or unfavorably on past performance (see FAR 15.305(a)(2)(iv)). Therefore, the Offeror shall be determined to have neutral past performance.

#### **4.3 Factor 3: Price (Volume III)**

The Government will conduct its price analysis using one or more of the techniques

specified in FAR 15.404-1(b). The Price/Cost proposal will not be adjectively rated. The Price/Cost proposal will be compared to the Demonstrated Technical/Management Capability proposal for consistency and understanding of the requirement.

For evaluation purposes only, the Government will evaluate the grand total of the transition period, base year and all option periods for all CLINs excluding CLIN 0008 Cancellation Payment. The evaluated price will be based upon full capacity and the transition, base and option years.

More specifically, the Government will add up the amounts for each CLIN (Quantity X Unit Price = Amount) as follows:

CLIN 0001	Quantity X Unit Price =	Amount
CLIN 0002	Quantity X Unit Price =	Amount
CLIN 0003	Quantity X Unit Price =	Amount
↓	↓	↓
CLIN 9006	Quantity X Unit Price =	<u>Amount</u>
GRAND TOTAL		\$_____

It is this grand total amount above which will be evaluated for both Option A. The grand total amount for Option B will not include CLIN 0008.

The Government may require the submission of cost or pricing data after receipt of proposals if such determination is made in accordance with FAR 15.103-4, "Requiring certified cost or pricing data", which states:

(10 U.S.C. 2306a and 41 U.S.C. 254b).

(a)(1) The contracting officer shall obtain certified cost or pricing data only if the contracting officer concludes that none of the exceptions in [15.403-1\(b\)](#) applies. However, if the contracting officer has reason to believe exceptional circumstances exist and has sufficient data available to determine a fair and reasonable price, then the contracting officer should consider requesting a waiver under the exception at [15.403-1\(b\)\(4\)](#). The threshold for obtaining certified cost or pricing data is \$700,000. Unless an exception applies, certified cost or pricing data are required before accomplishing any of the following actions expected to exceed the current threshold or, in the case of existing contracts, the threshold specified in the contract:

(i) The award of any negotiated contract (except for undefinitized actions such as letter contracts).

(ii) The award of a subcontract at any tier, if the contractor and each higher-tier subcontractor were required to furnish certified cost or pricing data (but see waivers at [15.403-1\(c\)\(4\)](#)).

(iii) The modification of any sealed bid or negotiated contract (whether or not certified cost or pricing data were initially required) or any subcontract covered by paragraph (a)(1)(ii) of this subsection. Price adjustment amounts must consider both increases and

decreases (e.g., a \$200,000 modification resulting from a reduction of \$500,000 and an increase of \$300,000 is a pricing adjustment exceeding \$700,000). This requirement does not apply when unrelated and separately priced changes for which certified cost or pricing data would not otherwise be required are included for administrative convenience in the same modification. Negotiated final pricing actions (such as termination settlements and total final price agreements for fixed-price incentive and redeterminable contracts) are contract modifications requiring certified cost or pricing data if—

(A) The total final price agreement for such settlements or agreements exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection; or

(B) The partial termination settlement plus the estimate to complete the continued portion of the contract exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection (see [49.105\(c\)\(15\)](#)).

(2) Unless prohibited because an exception at [15.403-1\(b\)](#) applies, the head of the contracting activity, without power of delegation, may authorize the contracting officer to obtain certified cost or pricing data for pricing actions below the pertinent threshold in paragraph (a)(1) of this subsection, provided the action exceeds the simplified acquisition threshold. The head of the contracting activity shall justify the requirement for certified cost or pricing data. The documentation shall include a written finding that certified cost or pricing data are necessary to determine whether the price is fair and reasonable and the facts supporting that finding.

(b) When certified cost or pricing data are required, the contracting officer shall require the contractor or prospective contractor to submit to the contracting officer (and to have any subcontractor or prospective subcontractor submit to the prime contractor or appropriate subcontractor tier) the following in support of any proposal:

(1) The certified cost or pricing data and data other than certified cost or pricing data required by the contracting officer to determine that the price is fair and reasonable.

(2) A Certificate of Current Cost or Pricing Data, in the format specified in [15.406-2](#), certifying that to the best of its knowledge and belief, the cost or pricing data were accurate, complete, and current as of the date of agreement on price or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

(c) If certified cost or pricing data are requested and submitted by an offeror, but an exception is later found to apply, the data must not be considered certified cost or pricing data as defined in [2.101](#) and must not be certified in accordance with [15.406-2](#)

(d) The requirements of this subsection also apply to contracts entered into by an agency on behalf of a foreign Government.

Price will not be scored; however, it will be considered a factor in the best value determination. Proposals will be evaluated for price realism, completeness, and reasonableness:



- Realism: Prices are compatible with the proposed scope of effort and operations reflect reasonable economy and efficiency.
- Completeness: All information/data required by the RFP has been submitted, tracks to the requirement, and supports the offer
- Reasonableness: Prices are considered fair and reasonable under current market conditions and reasonable to the Government

Each price will be validated by examining the arithmetic accuracy and consistency of the information presented in the proposal. Discrepancies will be noted and provided to the SSA and CO.

The Government may require the submission of cost or pricing data in accordance with FAR 15.103-4 if such a determination is made after receipt of proposals.

#### **4.4 Factor 4: Environmental (Volume IV)**

This factor is used to assess the information each offeror provides to assist ICE in its compliance with NEPA and other environmental regulations. This includes the clarity, completeness, and accuracy of all information submitted in response to Section 2.0 of Section J, Attachment 12.

The Government shall evaluate the Offeror's information to ensure conformance with the following NEPA-based requirements:

- Clarity, completeness, and accuracy of information submitted;
- The location of the proposed action, the evaluation of environmental impacts, and if necessary the mitigation required to achieve a Finding of No Significant Impact (FONSI); and
- Expected duration of the NEPA process (not to exceed 270 days).

#### **M.4 COMPETITIVE RANGE**

If it is determined that discussions are necessary, the Government may establish a competitive range in accordance with FAR 15.306(c) based on the ratings of each proposal against all evaluation criteria. The CO reserves the right to limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The CO shall have the sole authority to establish a competitive range comprised of only the most highly rated proposals.

#### **M.5 RESPONSIBLE PROSPECTIVE CONTRACTORS**

In addition to the evaluation methodology outlined in this RFP, an Offeror must also be found responsible by the CO prior to the award of any resultant contract. At a minimum, to be determined responsible a prospective contractor must:

- Have adequate financial resources to perform the contract, or the ability to obtain those resources;
  - Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all other business commitments;
  - Have a satisfactory record of integrity and business ethics;
  - Have a satisfactory performance record;
  - Have the necessary organization, experience, accounting and operational controls;
- and,
- Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

**[END OF SECTION M]**